



THE UNITED STATES PATENT AND TRADEMARK OFFICE

Docket No. 11770US03

In the Application of:

AINSWORTH et al.

Serial No. 09/143,503

Filed: August 28, 1998

Patent No. 5,554,121

Issued: September 10, 1996

For: INTRALUMINAL CATHETER WITH
HIGH STRENGTH PROXIMAL
SHAFT

Examiner:

Group Art Unit: 3734

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on January 4, 1999

By:

George Wheeler
George Wheeler
Reg. No. 28,766

DECLARATION
for
REISSUE PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a reissued patent is sought on the invention entitled-

INTRALUMINAL CATHETER WITH HIGH STRENGTH PROXIMAL SHAFT

the specification of which was filed on August 28, 1998 as United States Reissue Application Number 09/143,503 ("this application").

I understand that this application is being filed to reissue U.S. Patent No. 5,554,121, which was issued on July 14, 1998, and for which a reexamination certificate B1 5,554,121 issued July 14, 1998 ("the original patent"). I believe the original patent to be partly inoperative because I claimed less than I had the right to claim in the patent. One error being relied upon as the basis for reissue is the previous omission of claims having the scope of claims 18-56 newly submitted with this application. I understand that at least claims 18 and 53 are broader than any claim in the original patent.

All errors being corrected in this application up to the time of filing of this oath or declaration arose without any deceptive intention on my part. I believe that all errors being corrected in this application up to the time of filing of this oath or declaration arose without any deceptive intention on the part of any other applicant.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the United States Patent and Trademark Office all information which I know to be material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, § 119(a)-(d) of any foreign application(s) for patent or inventor's certificate listed below. I have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

SEARCHED
INDEXED
MAILED
FILED
RECEIVED
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INDEXED
MAILED
FILED
RECEIVED

<u>Number</u>	<u>Country</u>	<u>Day/Month/Year Filed</u>	<u>Is Priority Claimed?</u>
			None

I hereby claim the benefit under Title 35, United States Code, § 119(e) of any United States provisional application(s) listed below.

<u>Application Number</u>	<u>Filing Date</u>

None

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below. Insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

Serial No. Filing Date Patented, Pending, or Abandoned?

None

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

This declaration names 3 inventor(s) below.

Information about sole or first inventor:

First inventor's signature: Robert D. Henswolk

Date Signed: December 14, 1998

Information about second joint inventor:

(given name, family name): Tai C. Cheng

Residence: 3375 Kenzo Court

Mountain View, California 94040

Citizenship: United States of America

Post Office Address: 3375 Kenzo Court

Mountain View, California 94040

Second inventor's signature: Robert D. Ainsworth by Robert D. Ainsworth
(Signed by Robert D. Ainsworth on behalf of the omitted inventor)

Date Signed: December 14, 1998

卷之三

Information about third joint inventor:

(given name, family name): Lawrence D. Wasicek

Residence: 940 Bimmerle Place

San Jose, CA 95123

Citizenship: United States of America

Post Office Address: 940 Bimmerle Place

San Jose, CA 95123

Third inventor's signature: _____

Date Signed: _____



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Serial No. 09/143,503

Filed: August 28, 1998

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SHAFT

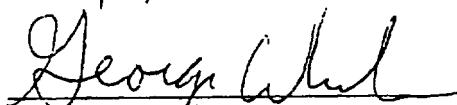
Examiner:

Group Art Unit: 3734

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January 4, 1999

By:


George Wheeler
Reg. No. 28,766

**DECLARATION
for
REISSUE PATENT APPLICATION**

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a reissued patent is sought on the invention entitled .

INTRALUMINAL CATHETER WITH HIGH STRENGTH PROXIMAL SHAFT

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All errors being corrected in this application up to the time of filing of this oath or declaration arose without any deceptive intention on my part. I believe that all errors being corrected in this application up to the time of filing of this oath or declaration arose without any deceptive intention on the part of any other applicant.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

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Number Country Day/Month/Year Filed Is Priority Claimed?

None

I hereby claim the benefit under Title 35, United States Code, § 119(e) of any United States provisional application(s) listed below.

Application Number Filing Date

None

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below. Insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

Serial No. Filing Date Patented, Pending, or Abandoned?

None

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

This declaration names 3 inventor(s) below.

Information about sole or first inventor:

First inventor's signature: _____

Date Signed: _____

Information about second joint inventor:

(given name, family name): Tai C. Cheng
Residence: 3375 Kenzo Court
Mountain View, California 94040
Citizenship: United States of America
Post Office Address: 3375 Kenzo Court
Mountain View, California 94040

Second inventor's signature: _____ by Robert D. Ainsworth
(Signed by Robert D. Ainsworth on behalf of the omitted inventor)

Date Signed: _____

Information about third joint inventor:

(given name, family name): Lawrence D. Wasicek
Residence: 940 Bimmerle Place
San Jose, CA 95123
Citizenship: United States of America
Post Office Address: 940 Bimmerle Place
San Jose, CA 95123

Third inventor's signature: Lawrence D. Wasicek

Date Signed: _____



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



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Examiner:

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By: George Wheeler

George Wheeler
Reg. No. 28,766

DECLARATION OF ATTORNEY GEORGE WHEELER
SUPPORTING COMPLETION OF FILING REQUIREMENTS

I, George Wheeler hereby declare that the present patent application, as identified

above in the caption, is the application which the inventor(s) executed by signing the

Combined Declaration and Power of Attorney In Original Application enclosed herewith.

All statements made herein of my own knowledge are true, and all statements made herein on information and belief are believed to be true. I have been warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Title 18 U.S. Code 1001, and may jeopardize the validity of the application or any patent issuing thereon.

January 4, 1999

Date

George Wheeler
George Wheeler
Reg. No. 28,766



Hon. Commissioner of Patents and Trademarks
Sir: Please place the USPTO receipt stamp hereon and
place in outgoing mail to acknowledge receipt of:
Docket No: 117704503
Applicant: AINSWORTH et al
Serial No.: 69/143 563
Date Filed: 8-28-98
 Transmittal COMPLETION OF FILING REQ.
 Fee \$2,094.00
 Patent Application including: PETITION FOR
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____ Page(s) Specification TIME
____ Page(s) Claims #
____ Page(s) Abstract
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Respectfully: MCANDREWS, HELD & MALLOY, LTD.

Attorney for Applicant

Hon. Commissioner of Patents and Trademarks
Sir: Please place the USPTO receipt stamp hereon and
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Docket No: 117704503
Applicant: AINSWORTH et al
Serial No.: 69/143 563
Date Filed: 8-28-98
 Transmittal COMPLETION OF FILING REQ.
 Fee \$2,094.00
 Patent Application including: PETITION FOR
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373(b); ASSENT TO REISSUE; OFFER TO
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Respectfully: MCANDREWS, HELD & MALLOY, LTD.

Attorney for Applicant

MC ANDREWS, HELD & MALLOY, LTD.

Commissioner of Patents and Trademarks

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Docket No. 11770US03

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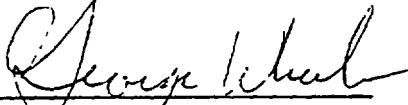
For: INTRALUMINAL CATHETER WITH
HIGH STRENGTH PROXIMAL
SHAFT

Examiner:

Group Art Unit: 3734

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, BOX MISSING PARTS, Washington, D.C. 20231 on January 11, 1999.

By: 

George Wheeler
Reg. No. 28,766

DECLARATION OF GEORGE WHEELER

37 C.F.R. § 1.47(a)

1. This declaration is being submitted to explain the circumstances under which Tai C. Cheng, one of the joint inventors of the original patent on which this reissue application is based, cannot be reached to obtain his signature on documents in this application. I, George Wheeler, am an attorney of record in this application. I have first-hand knowledge of the facts recited herein.

09143503-1016000

DETAILS OF EFFORTS TO REACH NONSIGNING INVENTOR

2. On November 9, 1998, I called Mr. Ainsworth, the only inventor who is presently employed by the assignee, to look for the current address of Mr. Cheng. He informed me that Tai C. Cheng's last known address is the address listed in the original patent application: 3375 Kenzo Court, Mountain View, California 94040, and that Mr. Cheng's last known telephone number is 1-415-961-5737.
3. On November 12, 1998, I obtained a "national yellow pages" Internet search to find possible addresses of Mr. Cheng. A report of that search is attached as Exhibit A. The only "Tai C. Cheng" found in that search resides at 724 Bernard Street, Los Angeles, CA 90012.
4. On December 2, Mr. Ainsworth informed me that his attempts to call Mr. Cheng were unsuccessful because the number was not in service.
5. On December 7, 1998, I prepared a package including the reissue application, drawings and an inventors' oath for signature by Mr. Cheng. I drafted a letter to Mr. Cheng explaining the situation and sent it to him by Express Mail (with return receipt) and by Federal Express. A copy of the letter is attached as Exhibit B.
6. The letter was delivered to a Mr. Cheng (the Express Mail receipt is attached as Exhibit C). But on December 11, Mr. Cheng's daughter called back to report that the Mr. Cheng we reached does not speak English and was not the Tai C. Cheng who would have been one of the present inventors.
7. On December 16, I attempted to call Mr. Cheng at the telephone number which had not worked for Mr. Ainsworth. I, too, was informed by a recorded message that the number dialed was not in service.
8. Therefore, I do not know and have not been able to find out Inventor Tai C. Cheng's whereabouts after conducting a nationwide Internet search and checking his last known address and telephone number.

DEPARTMENT OF COMMERCE
U.S. PATENT AND TRADEMARK OFFICE

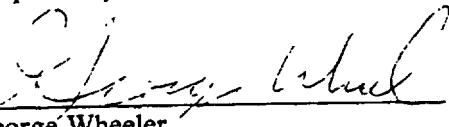
9. Inventor Tai C. Cheng's last known address is the address listed in the original patent application:

3375 Kenzo Court
Mountain View, California 94040.

Mr. Cheng's last known telephone number is 1-415-961-5737.

10. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

By: 
George Wheeler
Reg. No. 28,766
Attorney for applicant(s)

January 11, 1999

DATE

McAndrews, Held & Malloy, Ltd.
34th Floor
500 West Madison Street
Chicago, IL 60661
312/707-8889

00014502-100000

وَجَاهَهُمْ بِالْحَقِّ وَلَمْ يَكُنْ لَّهُ بِهِمْ بُشَّارٌ وَلَمْ يَكُنْ لَّهُ بِهِمْ عَلِيمٌ

A

718 599 5657
AT&T Click2Dial™

CHENG, TAI H
18 Beadel Street
Brooklyn, NY 11222

718 599 0026
AT&T Click2Dial™

CHENG, TAI H
26 Varick Street
Brooklyn, NY 11222

Update

Map...

212 226 8263
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CHENG, TAI M
47 Delancey Street
New York, NY 10002

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B

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OF COUNSEL
ROBERT C. RYAN
S. JACK SAUER

December 7, 1998

VIA FEDERAL EXPRESS
AND EXPRESS MAIL WITH RETURN RECEIPT

EL026004628US

Tai C. Cheng
724 Bernard Street
Los Angeles, CA 90012

RE: Reissue Application for your U.S. Patent No. 5,554,121
Intraluminal Catheter With High Strength Proximal Shaft
Our Docket No. 11770US03

Dear Mr. Cheng:

I am a patent attorney. I have been hired by Advanced Cardiovascular Systems, Inc. (ACS) to seek reissue of its U.S. Patent No. 5,554,121, entitled *Intraluminal Catheter With High Strength Proximal Shaft*, which names "Tai C. Cheng" as a joint inventor, along with Bob Ainsworth and Larry Wasicek. I enclose a copy of the original patent for your information. Since I am sending this package two different ways, you probably will receive two of them, with identical contents.

My Efforts to Contact You

I did not have your current address, since you have not worked at ACS for awhile and you apparently have moved from the house in Mountain View, California, where you lived while you worked for ACS. I therefore turned to an internet "Yellow pages" site, which named only one "Tai C. Cheng" in the United States. Bob Ainsworth has tried to call you a number of times recently, at the number given in the "Yellow pages" site. The telephone has not been answered, so I don't know if Bob is calling the right number. Having failed to reach you by telephone, I have sent this letter to the address given by the "Yellow pages" site.

McANDREWS, HELD & MALLOY, LTD.

Tai C. Cheng
December 7, 1998
Page 2

I realize that you may or may not be the Tai C. Cheng who worked at ACS and is an inventor for the enclosed patent. Please call me, George Wheeler, right away at 312-707-8889 between about 7 AM and 3 PM (Pacific Standard Time) on a work day to confirm whether you are the Tai C. Cheng I am looking for. You may call me "collect" if you don't want to pay for the telephone call. If you are not the Tai C. Cheng I am looking for, please accept my apology for filling your mailbox. After you tell me you are not the person I seek, I will stop trying to contact you. (If, however, you can tell me where to find the Tai C. Cheng I am looking for, I would appreciate the information.)

Recent Developments Regarding Your Patent

Returning to the main reason for this letter, your original patent was reexamined at the request of a competitor. As a result, the original patent was kept in force, and claims 7-17 were added during reexamination.

I am now seeking to reissue the patent. One goal of the reissue is to broaden the original claims. The new claims 18-56 I am seeking can be found on pages 10-15 of the enclosed "SPECIFICATION AND CLAIMS FOR REISSUE APPLICATION."

*I Need You To Read, Sign,
And Return The Enclosed Forms*

To reissue the patent, each inventor, including you, must sign a declaration explaining how the patent came to be issued with its original claims and what error is being corrected by reissue. I consulted with Bob Ainsworth and Larry Wasicek to obtain the necessary information. Two copies of the declaration are attached to the end of the enclosed "SPECIFICATION AND CLAIMS FOR REISSUE APPLICATION."

The enclosed declaration does not blame anyone for this error: It just states that an error occurred, without deceptive intention, because claims of the proposed scope were not originally sought. The declaration does not state that you or any other inventor made the error. Normally, the inventors are not expected to expertly draft the claims in a patent application.

Please read the enclosed "SPECIFICATION AND CLAIMS-FOR REISSUE APPLICATION" completely. Deletions from the reexamined patent are indicated by brackets, and additions are indicated by underlining. Also completely and carefully read the declaration at the end of the enclosed "SPECIFICATION AND CLAIMS FOR REISSUE APPLICATION." If you have any problems or questions, please call me at the number given above.

McANDREWS, HELD & MALLOY, LTD.

Tai C. Cheng
December 7, 1998
Page 3

If the enclosures are satisfactory, please sign your name at the places indicated by arrow tabs sticking out of the margin. Please sign the two duplicate declarations. We ask for two so that, after we send one to the United States Patent and Trademark Office, we will have the other in case the original is misplaced or fails to reach its destination for some reason. That way, it is very unlikely that we will need to contact you again.

Please Return The Signed Enclosures Promptly

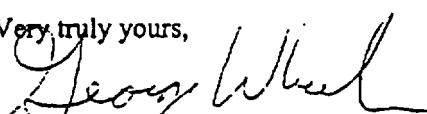
Return the signed "SPECIFICATION AND CLAIMS FOR REISSUE APPLICATION" to me. You can put this document in the enclosed Express Mail mailer and mail it in any Express Mail dropoff point or U.S. Postal Service box or office. You do not need to attach any postage to the envelope – it will be paid by us. If you need to incur any reasonable personal expense to cooperate with us, I will be happy to reimburse you. I have tried to avoid causing you any expense. If you get a second package with the same enclosures, you don't need to repeat this step. You may keep or discard the extra papers.

This matter is urgent. I must receive your signed papers and send them to the U.S. Patent and Trademark Office in Arlington, Virginia before December 16. Time must be left to allow the package to get from you to us, and ultimately to the Patent Office. Please send the signed papers back on or before December 11.

The "Bottom Line"

I would appreciate an immediate call to tell us if I have found the right Tai C. Cheng, followed by prompt attention to the enclosures if you are the inventor I am seeking. I apologize for the rush: I thought Bob would be able to reach you several weeks ago on the telephone.

Very truly yours,


George Wheeler

GW/liz

Enclosures

cc: Tim L. Kitchen

EL025944845US

EL026004631US

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C